IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3231 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BABUBHAI VADILAL DEVDA

Appearance:

MRS VASAVDATTA BHATT for the Petitioner.

NOTICE SERVED for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/09/2001

ORAL JUDGEMENT

Rule. With the consent of the parties, the matter is heard today. The respondent was removed from service on the ground that he remained absent from duty at the relevant time. The said order was the subject matter of the Industrial Dispute at the instance of the respondent workman. The Labour Court, Vadodara, by its Award dated 1.10.1999, came to the conclusion that the

order of removal was on the higher side and while exercising powers under Section 11-A of the Industrial Disputes Act, the Labour Court has set aside the removal order and the concerned workman was ordered to be reinstated with 40% back wages. The Court has found that, in the past, he remained absent only on two occasions. The said Award is challenged by the S.T. Corporation by filing this petition.

I have heard the learned Advocates for the parties. I have also gone through the Award of the Labour Court. In my opinion, so far as the order of reinstatement is concerned, the Labour Court has given some reasons for setting aside the removal order. The Court has found that the past record of the concerned employee was also not so bad which deserves removal order. The Court has also found that even looking to the misconduct in question, severe punishment of removal was not warranted. In view of the reasoning of the Labour Court, this Court would not like to interfere with the aforesaid order of reinstatement in a petition, which is substantively under Article 227 of the Constitution of India. However, in my view, the concerned person was serving as a driver and his services were required regularly by the Corporation and to an extent, he was negligent in not being punctual in his duty. This is not a case in which any back wages were required to be granted, especially when the misconduct is proved in the departmental enquiry. Under these circumstances, I set aside the order of back wages totally and the concerned workman will be entitled to reinstatement without any back wages for the intervening period.

This petition is accordingly disposed of with the aforesaid modification in the order of the Labour Court. The petition is partly allowed. Rule is accordingly made absolute partly, with no order as to costs.

21st September, 2001 (P.B. Majmudar, J.)

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(apj)